IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1431 OF 2006

Sanjay Dattaram Satam. ...Applicant
V/s.
The State of Maharashtra. ...Respondent

Shri Amit Date for Applicant.
Shri Y.S. Shinde, APP for the State.

CORAM : V.M. KANADE, J.

DATED : APRIL 21, 2006

P.C. :-

. Heard learned Counsel for the applicant and learned APP for the State.

. This is an application for anticipatory bail filed by the applicant who has an apprehension that he is likely to be arrested in connection with an offence which is registered vide C.R.No.16/2006. The complainant is an employee of Bank of Baroda. In the complaint, he has alleged that during the period from December 2004 to December 2005, the agent who was contacted by them namely one S.L. Toraskar and Associates had prepared bogus applications and had forwarded them alongwith bogus documents to their

Credits Cards Section and had misappropriated an amount of Rs.7 lakhs of the said bank.

2. Learned Counsel for the applicant has taken me to the said complaint which has been filed. He submits that the applicant was working as a subagent of the said Toraskar. He pointed out that there is no reference to his name in the said complaint which was filed against the said M/s.Toraskar & Associates. He submitted that he was working for M/s.Toraskar who had asked him to get customers for BOB Credit Cards and it was agreed that the applicant should bring number of prospective customers, obtain their application forms duly filled in by the said customers and forward the same to Toraskar alongwith photocopy of the documents submitted by the customers who in turn handover the same to the bank. He submitted that it appears that the complaints were received by the bank from the customers either they had never applied for BOB Cards or yet they received the bill for payment of certain dues or that BOB card was issued in the name of person who died 15 years ago. After the said complaints were received, the present

complaint was filed. He submitted that no role has been attributed to the present applicant. He invited my attention to the affidavit-in-reply filed by the State in which reliance was placed on his alleged confession which is annexed to Exhibit F. He invited my attention to the said document and submitted the nowhere in the said statement, he has admitted that he has committed the said offence. He submitted that therefore, he is falsely implicated and though complaint was filed against Toraskar, no action has been taken by the Bank against him. He submitted that further it was falsely stated in the affidavit-in-reply that the applicant has paid an amount of Rs.3 lakhs to the Bank of Baroda. He submitted that there was no occasion for the present applicant to make any payment either to the police or to the bank.

3. Learned APP, on the other hand, invited my attention to the various documents which are annexed to the affidavit-in-reply. He also invited my attention to the receipt which indicated that certain cards were received by the applicant and though possession of the

cards has been given to them on a particular date, there was no receipt given by the customers of having received the said cards. When a query was made as to why Toraskar against whom the complaint was filed, was not arrested or was arrayed as accused. He invited my attention to a letter which was issued by the Bank in favour of Toraskar in which he had specifically admitted that verification of the application forms would be done by their verification agency for acceptance or issuance of the cards.

4. In my view, the applicant has made out a case for anticipatory bail. The complaint has been filed against one Toraskar and Associates. No action has been taken by the police against him. The applicant was a subagent of the said Toraskar. If no action has been taken against him on account of letter dated 17th March, 2004, which was issued by the Assistant Vice President of the BOBCARDS Limited, then on the some analogy the present applicant who is a subagent of the said Toraskar, cannot be held to be responsible or liable if any lapse has been committed by the verification agency

of BOBCARDS Limited.

5. Therefore, the applicant is entitled to be granted anticipatory bail. The applicant, in the event of the arrest in connection with C.R.No.16/2006 registered with the Colaba Police Station, Mumbai, may be released on bail in the sum of Rs.25000/- with one or two sureties in the like amount. The applicant shall report to the Investigating Officer as and when called.

6. It is submitted by the learned Counsel for the applicant that he has already handed over all the relevant documents to the Investigating Officer and has been reporting to the Investigating Agency and helping them in the investigation during the last one year and he shall thereinafter also co-operate with the Investigating Officer. The applicant shall even otherwise report to the Investigating Officer once in a month.

. Application is disposed of in the above terms.

(V.M. Kanade, J.)